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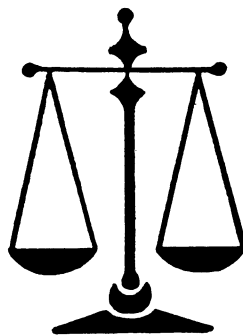
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**A SUMMARY OF SELECTED BILLS
TRULY AGREED TO AND FINALLY PASSED**

by the

84th General Assembly

Second Regular Session



Prepared By

Office of State Courts Administrator

July 1988

TABLE OF CONTENTS

	<u>PAGE</u>
Senate Bills Listed by Bill Number	i
House Bills Listed by Bill Number.	ii
Index.	iii
Introduction	1
Bill Summaries	2

SENATE BILLS

<u>Bill Number</u>	<u>Title</u>	<u>Page</u>
425	Judges/Juries/Retirement/22nd Circuit . . .	9
431	County Pay Raises	11
479	Juries Move	10
506	Guardian Ad Litem	13
522	Small Claims Jurisdiction	4
622	Juvenile Reimbursement.	11
640	Persons Incompetent to Testify.	6
678	Ethnic Intimidation	6
719	Child Abuse Reports	4
726	Administrative Procedures	5
729	Scope of Discovery.	5

HOUSE BILLS

<u>Bill Number</u>	<u>Title</u>	<u>Page</u>
934	Property Used as Evidence	7
943	County Classification Changes	12
949	Juror Compensation.	11
971	Involuntary Commitment--Mental Health . . .	13
978	Missouri Right to Financial Privacy Law . .	12
1052	Adoption Petition	2
1151 & 1044	AIDS Testing and Control.	12
1195	Increased Crime Victims Compensation Fund Judgments	8
1272, 1273 & 1274	Child Custody and Dissolution Modifications	2
1340 & 1348	Jury Trial within Correctional Facility . .	7
1344	Video Trials.	8
1512	Seat Belt Law	6
1643 & 1399	Retirement.	14
1660	Chapter 517 Revisions	5
1701	Medical Malpractice Interest.	13

INDEX

	<u>PAGE</u>
<u>Adoption</u>	2
HB 1052 Adoption Petition	
<u>Child Custody</u>	2
HB 1272 Child Custody and Dissolution Modifications	
<u>Children</u>	4
SB 719 Child Abuse Reports	
<u>Civil</u>	4
SB 522 Small Claims Jurisdiction	
SB 726 Administrative Procedures	
HB 1660 Chapter 517 Revisions	
<u>Court Workload</u>	5
SB 729 Scope of Discovery	
HB 1512 Seat Belt Law	
<u>Crime and Criminal Procedure</u>	6
SB 640 Persons Incompetent to Testify	
SB 678 Ethnic Intimidation	
HB 934 Property Used as Evidence	
HB 1340 Jury Trial Within Correctional Facility	
HB 1344 Video Trials	
<u>Crime Victims Compensation Fund</u>	8
HB 1195 Increased Crime Victims Compensation Fund Judgments	
<u>Judges</u>	9
SB 425 Judges/Juries/Retirement/22nd Circuit	

INDEX (Continued)

<u>Juries</u>	10
SB 479 Juries Move	
HB 949 Juror Compensation	
<u>Juvenile</u>	11
SB 622 Juvenile Reimbursement	
<u>Miscellaneous</u>	11
SB 431 County Pay Raises	
HB 943 County Classification Changes	
HB 978 Missouri Right to Financial Privacy Law	
HB 1151 AIDS Testing and Control	
HB 1701 Medical Malpractice Interest	
<u>Probate</u>	13
SB 506 Guardian Ad Litem	
HB 971 Involuntary Commitment--Mental Health	
<u>State Employees</u>	14
HB 1643 Retirement	

INTRODUCTION

In their role of interpreting the statutes of Missouri, judges have a potential interest in almost any bill enacted. However, for this synopsis certain bills have been selected which appear to have a direct impact on the workload or procedures of the courts or which appear likely to come to the attention of the courts within a short time. The individual summaries cover the major points of the bills or those sections that affect the courts, but they do not address every issue in each bill and should not be read as a substitute for reading the bill in the context of the entire chapter in the statutes.

The bills are arranged by subject matter; both a table of contents listing the bills by number, and an index, are provided at the front of the report.

Except for the bills marked "vetoed", all bills included in this summary have been signed by the Governor. Signed bills become effective August 13, 1988, unless otherwise indicated.

For a copy of any bill, please direct your request to:

Senate Bill Room
State Capitol
Jefferson City, Missouri 65101

House Post Office
State Capitol
Jefferson City, Missouri 65101

Staff of the Office of State Courts Administrator are willing to assist you in obtaining further information about any of the legislation.

ADOPTION

HB 1052 ADOPTION PETITION

Repeals section 453.060, RSMo 1986, relating to adoption, and enacts in lieu thereof one new section relating to the same subject, with an emergency clause.

Allows an adoption petition to be served without the names and addresses of the petitioners, upon request, if the judge feels that it is in the best interest of the child. This bill has an emergency clause. It became effective on May 11, 1988.

CHILD CUSTODY

CCS SS SCS HCS HBs 1272, 1273 & 1274 CHILD CUSTODY AND DISSOLUTION MODIFICATIONS

Repeals sections 43.400, 210.160, 452.330, 452.335, 452.340, 452.355, 452.375, 452.400, 452.402, 454.450, 454.460 and 565.150, RSMo 1986, and sections 452.370 and 454.435, RSMo Supp. 1987, relating to domestic relations, and enacts in lieu thereof thirty-seven new sections relating to the same subject, with penalty provisions.

43.400-43.409 Create a process for dealing with missing children reports.

210.160 Expands the types of matters involving juveniles for which a guardian ad litem must be appointed to include proceedings to determine custody or visitation rights under sections 452.375 to 452.410, RSMo.

452.330 Provides for changes in the criteria for property division, including the contribution of a spouse as a homemaker and custodial arrangements for minor children.

452.335 Requires judges to consider, among other things, the comparative earning power of each spouse when awarding maintenance and provides that the order shall state if it is modifiable or non-modifiable.

452.340.1 Provides for retroactive support orders.

452.340.2 Provides for abatement of child support payments by the obligor without any notice to the circuit clerk, if the custodial parent leaves the child in the custody of the noncustodial parent in excess of 30 consecutive days.

452.340.3,.4,.5 Provides for termination of child support payments at age eighteen or emancipation, with certain exceptions.

452.340.6 Provides for courts to consider abatement of future child support or transfer of custody if the custodial parent interferes with the visitation rights of a noncustodial parent who is current in child support payments.

452.342 Provides a mechanism for child support obligors to seek a court order requiring the custodial parent to make a monthly accounting of the expenditures on behalf of the child.

452.353 Provides, if the court requires, that obligors provide health insurance coverage for the child.

452.355 Provides for the court to order payment for the cost of the suit, including private attorney fees, in cases where nonpayment of child support due under a court order is an issue. The court may order that the amount be paid directly to the attorney, who may enforce the order in his name.

452.370 Provides that motions to modify shall be served outside the state as provided by supreme court rule 54.14 (personal service).

452.375 Alters the joint custody provisions and provides that the court must first consider joint custody when awarding a custody arrangement.

452.400 Provides for visitation under court ordered controls when there have been allegations of abuse and imposes sanctions for noncompliance.

452.402 Creates a new civil cause of action to allow grandparents to petition the court to order visitation rights with grandchildren and provides for the appointment of a guardian ad litem for the child, allowing a reasonable fee for such services to be taxed as costs.

452.423 Provides for the court to appoint a guardian ad litem in cases where custody, visitation, or support are contested. The guardian's fee is to be taxed as costs and may come from public funds.

454.435 Relates to services prosecutors provide to DCSE.

454.450 Provides for the way in which private counsel receive notice of the assignment of rights to DCSE.

454.506 Relates to the authority of DCSE to include medical insurance in administrative orders.

565.150 Modifies the crime of interference with custody.

Sections 1-7 create new felony crimes of parental kidnapping and child abduction and a misdemeanor of assisting in child abduction or parental kidnapping.

Section 8 provides that the court may assess as restitution against the defendant any reasonable expenses incurred in searching for or returning the child.

Section 9 establishes a "putative father registry" in the Department of Health to facilitate determinations of paternity for purposes of child support.

Section 10 provides that a move out of state by either parent may be a basis for a motion to modify a custody decree.

CHILDREN

SB 719 CHILD ABUSE REPORTS

Repeals section 210.150, RSMo 1986, relating to the confidentiality of child abuse reports, and enacts in lieu thereof one new section relating to the same subject, with penalty provisions.

Restricts the availability of certain information pertaining to child abuse reports. Any person inquiring about a child abuse report involving a school, day care center, juvenile court or state agency shall not receive any information identifying the persons mentioned in the report.

CIVIL

SB 522 SMALL CLAIMS JURISDICTION

Repeals sections 482.305 and 482.330, RSMo 1986, relating to courts, and enacts in lieu thereof three new sections relating to the same subject.

Increases the jurisdictional limit on small claims cases from \$1,000 to \$1,500. Also increases, from four to seven, the number of claims a party may bring each year. (Please note that there is an inconsistency in the wording of this provision regarding the number of claims. Any questions should be directed to the presiding judge.)

(Continued)

Section 1 provides for transfer of a lawsuit where the lawsuit is filed in the inappropriate portion of Jackson County.

SB 726 ADMINISTRATIVE PROCEDURES

Repeals sections 536.021, 536.031, 536.200, and 621.050, RSMo 1986, relating to certain administrative procedures, and enacts in lieu thereof eleven new sections relating to the same subject, with an effective date.

This act deals with administrative procedures of various state agencies. As it relates to the judiciary, it provides that in contested cases involving the Administrative Hearing Commission or the court, reasonable attorney's fees shall be awarded to the prevailing party. The act also provides that a prevailing party who prevails in any civil action brought against the state shall be awarded reasonable fees and expenses unless the court or agency hearing the case concludes that unusual circumstances make the award unjustified. Provision is also made for appeal of the award.

CCS SCS HB 1660 CHAPTER 517 REVISIONS

Makes technical changes to Chapter 517 (small civil cases), and amends Supreme Court Rule 54.20.(b) as it relates to service of process outside the state.

The legislation also authorizes the courts in St. Louis City, St. Louis County, Buchanan County, Jackson County and Pettis County to assess up to \$10.00 for law library maintenance (\$15.00 in Jackson County) on Chapter 517 cases.

COURT WORKLOAD

SB 729 SCOPE OF DISCOVERY

Repeals sections 491.090 and 510.030, RSMo 1986, relating to procedures used in certain legal proceedings and enacts in lieu thereof four new sections relating to the same subject and amends Supreme Court Rule Number 56.01 for the purpose of having it conform to law.

Permits parties in civil proceedings to obtain a statement without meeting the normal discovery requirements of substantial need and to also obtain video or electronic recordings of statements.

In civil or administrative proceedings, motions for sanctions for alleged violations of discovery rules must certify reasonable informal efforts were attempted to resolve the dispute.

Provides that the court shall grant a continuance to a party to a civil or criminal proceeding if that party so requests and the other party consents, for such a time as the trial judge deems appropriate.

Amends current provisions concerning witnesses whose attendance at a trial can be compelled.

SCS HCS HB 1512 SEAT BELT LAW

Repeals section 307.178, among others related to motor vehicles, and enacts several sections, including 307.178, in lieu thereof, with an effective date.

Repeals the provision in the law that provided an expiration date, making the mandatory seat belt law permanent. Also provides that court costs will not be assessed for violation of the seat belt law. This bill becomes effective January 1, 1989.

CRIME AND CRIMINAL PROCEDURE

SB 640 PERSONS INCOMPETENT TO TESTIFY

Repeals section 491.060, RSMo 1986 relating to persons incompetent to testify in certain proceedings, and enacts in lieu thereof one new section relating to the same subject.

Includes dentists and psychologists in the group of persons incompetent to testify regarding information acquired from any patient while attending him in a professional character, and which information was necessary to his treatment.

SB 678 ETHNIC INTIMIDATION

Creates the crimes of ethnic intimidation and institutional vandalism. A person commits the crime of ethnic intimidation if he commits any of certain existing crimes by reason of any motive relating to race, color, religion or national origin.

Institutional vandalism results if he knowingly vandalizes, defaces, or otherwise damages certain ethnically related buildings or property.

A civil cause of action is created for recovery of damages.

HB 934 PROPERTY USED AS EVIDENCE

Repeals section 490.717, RSMo Supp., 1987, relating to evidence in certain criminal cases, and enacts in lieu thereof one new section relating to the same subject.

Broadens the bill enacted last year to allow photographs of personal property other than merchandise to be used as evidence in criminal proceedings.

CCS SCS HCS HBs 1340 & 1348 JURY TRIAL WITHIN CORRECTIONAL FACILITY

Repeals sections 217.780, 544.275, 546.680, 546.710, 546.720, 546.730, 546.740, 546.750, 577.021, 558.019, and 568.050, RSMo 1986, relating to certain civil and criminal procedures, and enacts in lieu thereof twenty-one new sections relating to the same subject, with penalty provisions.

217.780 Allows courts to grant prosecutors access to probation and parole presentence reports when the interest or welfare of the state makes the action desirable.

544.275 Removes some of the present limits on what types of cases may be heard inside a state correctional facility when an inmate is a party. Jury trials would not be heard inside the institution. Discretion is with the court as to whether to hold court inside an institution.

Chapter 546 Is amended to allow death penalty executions by any chief administrative officer of a correctional institution controlled by the division of adult institutions, and permits execution by lethal injection.

557.021 Makes a largely technical change to the criminal sentencing statute.

558.019 Changes the law on release of certain inmates from correctional facilities.

568.050 Is amended to provide a lower standard of proof to convict a defendant of the crime of endangering the welfare of a child (see 562.016 RSMo).

Section 1-9 Enacts the "Missouri Incarceration Reimbursement Act", which would create a new civil action for purposes of the state to recover costs of incarcerating prisoners from the assets of the prisoner. Judges are required to cooperate with the investigation of inmates they sentenced.

Section 10 Provides discretionary authority for the Office of Administration to reimburse counties for costs in prosecuting cases involving crimes committed by inmates and capital cases in third and fourth class counties.

CCS SCS HCS HB 1344 VIDEO TRIALS

This bill authorizes the use of video trials in St. Louis City and in those counties where there is a state correctional facility. The following proceedings may be conducted with the aid of technologically advanced equipment so long as such proceedings are conducted in open court:

1. First appearance before an associate circuit judge on a criminal complaint;
2. Waiver of preliminary hearing;
3. Arraignment on an information or indictment where a plea of not guilty is entered;
4. Arraignment on an information or indictment where a plea of guilty is entered upon waiver of any right such person might have to be physically present;
5. Any pretrial or posttrial criminal proceeding not allowing the cross-examination of witnesses;
6. Sentencing after conviction at trial upon waiver of any right such person might have to be physically present;
7. Sentencing after entry of a plea of guilty; and
8. Any civil proceeding other than trial by jury.

This bill has an emergency clause; it became effective on March 17, 1988.

CRIME VICTIMS COMPENSATION FUND

SS SCS HCS HB 1195 INCREASED CRIME VICTIMS COMPENSATION FUND JUDGMENTS

Repeals sections 595.035, 595.045, and 595.050, RSMo 1986, relating to victims of crime, and enacts in lieu thereof six new sections relating to the same subject, with penalty provisions.

This legislation gives Worker's Compensation access to medical records of crime victims and provides criminal penalties for failure to comply; provides that Social Security benefits received by a victim shall not be considered a factor in determining benefits from the Crime Victims Compensation Fund; and makes a number of changes in crime victim judgments.

A \$5.00 fee would be required for violations of state and county and municipal ordinances, except most nonmoving traffic violations and conservation related violations. Annually, \$250,000 will be diverted to the forensic laboratory account. Seventy-five percent of the remainder will be distributed to the Crime Victims Compensation Fund; 25% to a newly created Services to Victims Fund to be administered by the Department of Public Safety.

Additionally, a judgment of \$68.00 will be required if the conviction is for a class A or B felony; \$46.00 if the conviction is for a class C or D felony; and \$10.00 if the conviction is for any misdemeanor under Chapters 195, 565, 566, 568, 569, 570, 567, 573, 574, 575, 491, 572, 311, (but only to felony violations of this chapter committed by persons not duly licensed by the supervisor of liquor control), 571, and 577, RSMo.

All money collected on CVC judgments shall be paid over, at least monthly, to the state treasury.

JUDGES

SB 425 JUDGES/JURIES/RETIREMENT/22ND CIRCUIT

Repeals sections 476.452, 476.515, 476.535, 486.220, 492.010, 494.240, and 506.150, RSMo 1986, and sections 476.520 and 538.300, RSMo Supp. 1987, relating to the judicial system, and enacts in lieu thereof fifteen new sections relating to the same subject, with an emergency clause for a certain section.

476.406 Employees of the 22nd judicial circuit are given the option to work a forty hour week, "to obtain the full benefits of his appropriated salary."

476.452 Increased benefits to widows of special commissioners.

476.515 A judge's surviving spouse by a previous marriage may be a beneficiary if the former spouse's rights in any benefits were the result of a court order or decree, contract, or by law.

Juvenile court commissioners are deemed "judges" for retirement purposes.

476.520 Judges with more than 15 years of service are allowed to retire with full benefits at age 60.

476.535 Surviving spouses are to receive the benefit of any cost of living allowances made to the deceased judge's benefits.

486.220 Increases categories of persons who may be notaries public.

492.010 Notaries public, certified court reporters and certified shorthand reporters are empowered to administer oaths.

494.240 Jurors are to be selected at random, without regard to township representation.

506.150 Service of process by mail is allowed in the same manner as allowed in federal court.

Section 1 Appellate judges, including Supreme Court judges, are allowed to maintain an official station at an office other than the locus of the court of which the judge is a member.

The presiding judge of the circuit in which the appellate judge has an official station may provide suitable office space if available.

Judges who maintain such an official station shall not be entitled to any state allowances for travel and mileage to the locus of the court, nor to any appropriations for expenses for the station.

Section 2 Senior judges are allowed to accrue service credit for purposes of retirement, and are authorized compensation subject to appropriations for that purpose.

Section 3 Judges who fail to retire at age 70 automatically waive all annual compensation, salary and retirement compensation.

Section 4 The Supreme Court is to recommend, on or before March 1, 1989, guidelines for use by the General Assembly in determining the need for additional judicial personnel and for the evaluation of judicial performance.

Section 5 Business records are admissible in court upon the affidavit of the custodian.

Section B Interest on judgments on medical malpractice claims is permitted. This section (B) has an emergency clause.

JURIES

SB 425 JUDGES/JURIES/RETIREMENT/22ND CIRCUIT
SEE JUDGES

SB 479 JURIES MOVE

Amends chapter 545, RSMo, relating to criminal procedure, by adding thereto one new section relating to supplemental jurors from other counties, with an emergency clause.

Provides a statutory basis for selecting a jury from a county other than the county of origin of a trial and moving the jury to the trial rather than moving the trial to the jury when a change of venue would be granted. If the circuit court judge feels it necessary to summon a jury from a different, non-adjointing circuit, he may request the Chief Justice of the Supreme Court to name a county from which jurors may be selected. This bill contains an emergency clause and was signed on 3/31/88.

HB 949 JUROR COMPENSATION

Imposes upon employers of more than 10 full-time employees the obligation to pay employees their regular rate of pay (less juror fees) for jury service up to fifteen days. Persons paying jurors their fee or compensation for jury service shall issue to each juror a statement showing the daily fee or compensation and the total fee or compensation received by the juror. Both federal and state court jury service is covered.

JUVENILE

SB 622 JUVENILE REIMBURSEMENT

Repeals section 211.393, RSMo 1986, relating to the juvenile justice system, and enacts in lieu thereof three new sections relating to the same subject.

Provides a ten (10) year phased reimbursement of up to 50% of juvenile court personnel costs. Circuits, except those with a first class county, will also be reimbursed for the cost of a chief deputy and one deputy juvenile officer (DJO) class 1, beginning on August 13, 1988 (211.393). Starting in FY 91, the amount of reimbursement will be determined by the greater of the two provisions; either the two position minimum or the applicable percentage of all personnel costs, excluding fringes for the preceding calendar year. The calendar year 1988 approved budget is established as the base for determining future reimbursement.

Provision is made for audit of base period budget and reimbursement claims by the state auditor.

MISCELLANEOUS

CCS HCS SCS SB 431 COUNTY PAY RAISES

This bill contains revisions of the county pay raise bill passed during the previous session. As it relates to circuit clerks, the bill provides that, upon written request of the salary commission, clerks must publish notice of the initial salary commission meeting.

HB 943 COUNTY CLASSIFICATION CHANGES

Repeals section 48.020, RSMo 1986, relating to the classification of counties, and enacts in lieu thereof one new section relating to the same subject.

Increases the amount a county must have had as an assessed valuation for more than five years to be classified as a first class county to \$450 million from \$400 million. If a second class county, on the effective date of the bill, has had an assessed valuation of at least \$400 million for one year, it may choose to be a county of the first classification after completing the five-year time period.

Also increases the minimum for second classification status to \$300 million and the maximum to less than \$450 million.

Counties with a valuation under \$300 million would be third classification counties, except that counties which were in the second classification before the bill becomes effective, but would revert to the third classification because of the increased assessed valuation requirements, would actually be in the fourth classification, but would operate under second classification laws.

HCS HB 978 MISSOURI RIGHT TO FINANCIAL PRIVACY LAW

Repeals section 408.655, RSMo 1986, relating to access to financial records, and enacts in lieu thereof twenty-one new sections relating to the same subject.

This bill enacts the Missouri Right to Financial Privacy Act. It prohibits access of any government agency to the financial records of any customer of a financial institution unless the customer authorizes disclosure or disclosure is in response to an administrative subpoena, judicial subpoena or formal written request. In the case of subpoena or request, the customer must be given notice and has the right to appeal. Delay of notice is permitted upon judicial finding that notice will endanger life or safety, will result in flight from prosecution, and other similar findings.

The bill provides for damages when customer's rights are violated. Injunctive relief is also granted.

SCS HCS HBs 1151 & 1044 AIDS TESTING AND CONTROL

This is a comprehensive bill relating to AIDS testing and control. As it affects the judiciary, it would provide that:

Negligent violation of confidentiality provisions will incur civil liability for actual damages, court costs, and legal fees; willful violation will incur further liability for exemplary damages;

The department of health may seek a court order directing an individual to undergo HIV testing without the right of refusal;

An HIV infected person may not donate blood, sperm or organs, or deliberately risk exposing another to the virus through sexual or other contact. Violation is a class D felony;

The Department of Health may seek court orders to close certain establishments used for sexual or other activities through which HIV is transmissible.

HB 1701 MEDICAL MALPRACTICE INTEREST

Repeals section 538.300, RSMo Supp. 1987, relating to medical malpractice, and enacts in lieu thereof one new section relating to the same subject, with an emergency clause.

This bill is identical to the final provision of SB 425, which provides that interest on judgments on medical malpractice claims is permitted. The act has an emergency clause and became effective on May 11, 1988.

PROBATE

SB 506 GUARDIAN AD LITEM

Repeals section 507.150, RSMo 1986, relating to infants as parties in a civil proceeding, and enacts in lieu thereof one new section relating to the same subject.

Increases the amount of money a next friend or guardian ad litem may receive or receipt before posting bond, from \$5,000 to \$10,000.

HCS HB 971 INVOLUNTARY COMMITMENT--MENTAL HEALTH

Repeals sections 632.005 and 632.385, RSMo 1986, relating to comprehensive psychiatric services, and enacts in lieu thereof two new sections relating to the same subject.

Requires that certain other mental health facilities, other than those operated by the Department of Mental Health, place voluntary and involuntary patients in the least restrictive environment when such placement is in the patient's best interest.

Limits the period of treatment in the least restrictive environment to one year, instead of to the term of detention.

STATE EMPLOYEES

SCS HCS HBs 1643 & 1399 RETIREMENT

This bill contains many provisions regarding state employees' retirement. They include:

1. Funding for MOSERS' members health insurance is increased from \$89.00 to \$105.00; for life insurance the funding is increased from \$4.40 to \$5.00 per month (this is to provide for anticipated cost increases);
2. Retirees will be allowed to retain up to \$10,000 of life insurance rather than the \$5,000 currently permitted;
3. The percentage of average final compensation used to compute retirement benefits for MOSERS is increased from 1.33% to 1.50%.
4. Judges are eligible for the same disability program as other state employees (104.518).

If you have any questions about this bill, we strongly recommend that you contact MOSERS.